

Page 10  
January 25, 2022

1 MELISSA KAYE

2 strip me of my authority that I had as a  
3 physician.

4 And then as far as my corporate  
5 title, there was a decrease in my pay that was  
6 unlawful and surreptitious.

7 How that happened, I don't know if  
8 they lowered my corporate title from attending  
9 III to attending II or if they took along my  
10 longevity pay or what happened to that money.

11 But my W-2s were reflecting about a  
12 \$28,000 pay cut once I transferred over to CHS.

13 Q. When was that?

14 A. The official change as far as my  
15 payroll was concerned was July 1, 2018.

16 Q. Prior to that, had you had any  
17 dealings with Dr. Yang or anyone else?

18 A. Yes, we began to -- The Bronx Court  
19 Clinic, which is under the management of  
20 Bellevue Hospital at the time in 2015 --

21 December of 2015 we started getting  
22 e-mails and phone calls from CHS, Dr. Yang and  
23 her operatives.

24 At that time in 2015 CHS,  
25 Correctional House Services, was still under

1 MELISSA KAYE  
2 the auspices of the Department of Health and  
3 Mental Hygiene but they began to interfere with  
4 the Court ordered competency exams at that  
5 time.

6 I believe it was in 2016 that CHS  
7 was transferred from DOHMH to HHC and the  
8 interference continued.

9                   But the initial contact that  
10          Dr. Yang made with the court clinics was  
11          related to case of Miguel Figueroa was the  
12          Defendant's name.

13                   And he was -- He had some felony but  
14 I don't know what it was. But he was quite a  
15 disruptive fellow. And he caused some problems  
16 on Rikers Island that Dr. Yang didn't like.

17 And by that time CHS was overseeing  
18 Rikers Island as far as the healthcare delivery  
19 was concerned.

20 So, Dr. Yang wanted him found unfit  
21 so he could be removed from Rikers Island and  
22 sent to Mid Hudson. She just wanted him off  
23 the island.

24 She started -- We started getting  
25 phone calls and e-mails and a lot of pressure

1 MELISSA KAYE  
2 to alter the administration of the exam in ways  
3 that I felt violated the defendants due process  
4 rights and constitutional rights.

Typically a defendant who refuses production for his exam three times, at that point the Court will consider ordering a force order for production.

9                           And Miguel Figueroa had never  
10 refused production and yet CHS was pushing for  
11 him to be force ordered into the court clinic,  
12 which I felt was cruel and extreme because a  
13 force order can, you know, can be risky and  
14 violent.

15 And it is up to the Court to decide  
16 to do that and up to defense counsel to decide  
17 to oppose it. But certainly doing it before a  
18 defendant has even refused production once  
19 seemed extreme.

20 And so that was a real concern. I  
21 felt it violated his constitutional rights.  
22 And this was -- Dr. Yang began pushing for this  
23 exam to be expedited and moved up from when it  
24 was scheduled.

25 I believe it was sometime in January

Page 13  
January 25, 2022

1 MELISSA KAYE

2 that he was doing the Christmas winter break.  
3 She wanted it done over the Christmas winter  
4 break.

5 My co-examiner, I only had one up  
6 there and I was always pretty much under  
7 staffed. And Dr. Winkler was on vacation, so I  
8 didn't have a co-examiner to see him, number  
9 one.

10 Number two, when the statute  
11 specifically states that the defense attorney  
12 may be present when the defense attorney  
13 requests to be present or when the defendant  
14 asked for his attorney to be present --

15 Q. Dr. Kaye, who did you complain to?

16 MS. CANFIELD: She is still  
17 finishing.

18 A. Dr. Yang was pressuring the case to  
19 be present when the case -- Dr. Yang was  
20 pressuring us to see the Defendant without his  
21 lawyer present. She was pressuring us to find  
22 him unfit.

23 We got a call from the Bronx  
24 District Attorney's Office saying that CHS had  
25 reached out to them asking them to accept an

MELISSA KAYE

2 unfit finding without an exam.

3                   And they were really taken back by  
4 that. So, she also was pressuring us to reach  
5 out to the Court and have the court calendar  
6 changed.

7                   And because his return to court date  
8 was in February, she wanted his return to court  
9 date moved up earlier. My direct supervisor,  
10 who I complained to and was involved in this,  
11 Jeremy Collie, you know --

12                   He wrote back an e-mail saying, you  
13 know, we have no authority over the court's  
14 calendar and we are not going to try to move  
15 this case up. He has to be seen with his  
16 attorney present and, you know --

17 Q. Dr. Kaye, I am going to stop you  
18 because we only have an hour.

19 Did you complain to anyone outside  
20 of CHS and H&H?

21 MS. CANFIELD: Objection to form,  
22 when and about what?

23 A. During the course of this incident  
24 in December of 2015, yes, I complained to the  
25 DA's office and I complained to legal aid and

Page 15  
January 25, 2022

1 MELISSA KAYE

2 then my chain of command.

3 Q. Okay. Now, from 2000 -- When you  
4 became medical director up until, I guess, your  
5 shift change, what were your office hours?

6 A. I worked an eight and a half hour  
7 day. Eight hour paid and thirty minute unpaid  
8 lunch.

9 Q. What time did you come to work?

10 A. My schedule was 9:00 to 5:30 and at  
11 times I would take shift changes but it was an  
12 eight hour work day and it was 9:00 to 5:30.

13 Q. When did you pick up your kids from  
14 school?

15 MS. CANFIELD: Objection to form.

16 Q. When did you take your kids to  
17 school, what time?

18 A. There was an error in my previous  
19 deposition. The drop off -- The school started  
20 at 8:25 or 8:35.

21 I would take them before, you know,  
22 I would get them there ten or fifteen minutes  
23 early. I think the start time was 8:25 a.m.

24 Q. On the shift change, what time were  
25 you able to drop off your kids at that point?

MELISSA KAYE

2 A. Around 7:15, I believe, around  
3 there.

4 Q. When is the first time you reported  
5 to Dr. Ford?

6 MS. CANFIELD: Objection to form.

7 | Reported what?

8 Q. When was the first time that you  
9 reported to Dr. Ford?

10           A.       I worked at the Bronx Clinic and  
11           that was under the auspice of Bellevue Hospital  
12           division of Forensic Psychiatry.  So, whoever  
13           was the director of the division of Forensic  
14           Psychiatry was my direct report to.

15 Dr. Ford became the director of the  
16 division of Forensic Psychiatry, I believe, in  
17 2009. I think she was there until 2014 or  
18 2015. He was the director at that point I  
19 reported to her.

20 She left in 2014 or 2015 to go work  
21 for CHS.

22 Q. And then who did you report to after  
23 she left at that time?

24 A. Dr. Jeremy Collie.

Q. Then when did you report to Dr. Ford

MELISSA KAYE

Because if he doesn't get -- If the judge  
doesn't get an accurate report on his mental  
state, the judge cannot rule accurately on his  
competency or lack thereof.

6 And, therefore, it violates his  
7 constitutional rights to have a fair trial to  
8 due process.

9                   So, yes, their attempt to clamp down  
10          on the psychological testing was an attempt to  
11          control and manipulate the content and results  
12          of the exams.

13 That is why I opposed it.

14 Q. Dr. Kaye --

15 A. They started monitoring my e-mails  
16 because I gave that policy out, they claim, but  
17 I did not.

18 Q. This took place in January 2019, is  
19 that right, yes or no?

20           A.       I believe it was around then. I  
21       can't -- I don't know -- Yeah, it was around --  
22       It was around then, I would say.

23 Q. Then in March -- In March 2019 did  
24 you complain about opining on fitness without  
25 an exam?

Page 51  
January 25, 2022

1 MELISSA KAYE

2 A. Oh, absolutely. I complained about  
3 that from the -- Yeah, I mean, it is completely  
4 violates the defendants constitutional rights  
5 to a fair trial.

6 If he doesn't even get examined  
7 and for --

8 Q. And who did you complain to about  
9 this?

10 A. I complained to Jain, Ford, Legal  
11 Aid, I believe I might have discussed it with  
12 judges. I don't know if I discussed it with  
13 Judge Lieb.

14 I think there were ADAs that I  
15 spoken to. I mean, everyone was pretty much  
16 taken back by the CHS doing this.

17 It had never been done before, you  
18 know, a competency exam is a contemporaneous  
19 exam of someones mental state.

20 It's not a retroactive evaluation of  
21 someones mental state like an insanity  
22 evaluation. It's the here and now and you  
23 can't do a here and now examination unless you  
24 examine the defendant.

25 Q. I am going to switch topics now, I'm